

(R-87-1805)

RESOLUTION NUMBER R- 268242

ADOPTED ON APR 28 1987

A RESOLUTION DETERMINING AND DECLARING THAT THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY OF THE CITY OF SAN DIEGO REQUIRE THE CONSTRUCTION, OPERATION AND MAINTENANCE OF A PUBLIC STREET AND INCIDENTS THERETO, TOGETHER WITH EARTH EXCAVATIONS OR EMBANKMENTS, SLOPE OR SLOPE EASEMENTS, AND INCIDENTS THERETO, IN A PORTION OF THOSE CERTAIN LANDS DESIGNATED AS SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 18 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN ACCORDING TO THE OFFICIAL PLAT THEREOF, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA; AND THAT THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY DEMAND THE ACQUISITION OF SAID PROPERTY INTERESTS FOR SAID CONSTRUCTION, OPERATION AND MAINTENANCE OF A PUBLIC STREET AND INCIDENTS THERETO, TOGETHER WITH EARTH EXCAVATIONS OR EMBANKMENTS, SLOPE OR SLOPE EASEMENTS, AND INCIDENTS THERETO; AND THAT THE PROPOSED PROJECT IS PLANNED IN A MANNER THAT WILL BE COMPATIBLE WITH THE GREATEST PUBLIC GOOD AND THE LEAST PRIVATE INJURY; AND DECLARING THE INTENTION OF THE CITY OF SAN DIEGO TO ACQUIRE SAID PROPERTY AND EASEMENTS UNDER EMINENT DOMAIN PROCEEDINGS; AND THAT TAKING AND ACQUIRING SAID PROPERTY UNDER EMINENT DOMAIN PROCEEDINGS ARE DEEMED NECESSARY; AND THAT ACQUISITION BY EMINENT DOMAIN IS AUTHORIZED BY LAW; AND DECLARING THAT AN OFFER TO PURCHASE THE PROPERTY AT THE APPRAISED VALUE PURSUANT TO GOVERNMENT CODE SECTION 7267.5 HAS BEEN MADE TO THE RECORD OWNER AND REJECTED; AND DIRECTING THE CITY ATTORNEY OF THE CITY OF SAN DIEGO TO COMMENCE AN ACTION IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF SAN DIEGO, FOR THE PURPOSE OF CONDEMNING AND ACQUIRING SAID PROPERTY INTERESTS AND EASEMENTS AND ACQUIRING IMMEDIATE POSSESSION THERETO.

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WHEREAS, the Council of The City of San Diego has provided notice to those persons designated in Section 1245.235, Code of Civil Procedure and also has provided all persons a reasonable opportunity to appear and be heard on the matters referred to in Section 1240.030, Code of Civil Procedure; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, as follows:

Section 1. That the public interest, convenience and necessity of The City of San Diego and the inhabitants thereof, require the construction, operation and maintenance of a public street and incidents thereto, together with earth excavations or embankments, slope or slope easements, and incidents thereto, in a portion of those certain lands designated as Southwest Quarter of Section 36, Township 18 South, Range 1 West, San Bernardino Meridian according to the Official Plat thereof, in the City of San Diego, County of San Diego, State of California, as more particularly described hereinafter.

Section 2. That the public interest, convenience and necessity of said City, and the inhabitants thereof, demand the acquisition and taking of fee simple title to and easements in said property for the construction, operation and maintenance of a public street and incidents thereto, together with earth excavations or embankments, slope or slope easements, and incidents thereto, said real property lying within the City of San Diego, County of San Diego, State of California.

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Section 3. That said property and easement interests are to be used for the construction, operation and maintenance of a public street and incidents thereto, together with earth excavations or embankments, slope or slope easements, and incidents thereto, which are planned and located in a manner most compatible with the greatest public good and the least private injury.

Section 4. That for the construction, operation and maintenance of a public street and incidents thereto, together with earth excavations or embankments, slope or slope easements, and incidents thereto, it is necessary that The City of San Diego and the inhabitants thereof acquire the respective property interests under eminent domain proceedings.

Section 5. That the taking and acquiring of respective property interests of the real property hereinafter described, under eminent domain proceedings, by The City of San Diego, are deemed necessary to serve the respective subdivision, as well as other properties in the area, and the development of the area near the second border crossing in accordance with the approved community plan.

Section 6. That such uses are public uses authorized by law: Article I, Section 19 of the Constitution of California; Article XIV, Section 220, Charter of The City of San Diego; Sections 1240.010, 1240.110, 1240.120, 1240.610, and 1255.410, Code of Civil Procedure; Sections 4090, 5101(d) and 5102, Streets & Highways Code; and Sections 37350.5 and 40404, Government Code.

00989

Section 7. That the parcels of real property and the interests sought to be condemned are described as follows:

Parcel 1A - Siempre Viva Road Right-of-Way

That portion of the Southwest Quarter of Section 36, Township 18 South, Range 1 West, San Bernardino Meridian, according to the Official Plat thereof, in the County of San Diego, State of California, described as follows:

Beginning at the Southwest corner of the Southwest Quarter of said Section 36 as shown on Record of Survey Map No. 9080, filed in the Office of the County Recorder of said County and State; thence North $00^{\circ}51'49''$ East, along the West line of said Section 36, a distance of 164.83 feet; thence leaving said West line South $88^{\circ}26'23''$ East a distance of 667.73 feet to the TRUE POINT OF BEGINNING; thence retracing North $88^{\circ}26'23''$ West a distance of 198.14 feet to a point of cusp with a non-tangent 939.00 foot radius curve concave Northwesterly, a radial line to said point bears South $25^{\circ}38'09''$ East; thence Northeasterly along the arc of said curve through a central angle of $07^{\circ}52'40''$ a distance of 129.11 feet; thence tangent to said curve North $56^{\circ}29'11''$ East a distance of 105.04 feet to the boundary of said Record of Survey No. 9080; thence South $00^{\circ}46'11''$ West along said boundary a distance of 127.07 feet to the TRUE POINT OF BEGINNING.

Parcel 1B - Slope Easement

The permanent easement and right-of-way for an earth embankment or excavation slope or slopes, through, over, along and across the following described real property:

That portion of the Southwest Quarter of Section 36, Township 18 South, Range 1 West, San Bernardino Meridian, according to the Official Plat thereof, in the County of San Diego, State of California, described as follows:

Beginning at the Southwest corner of the Southwest Quarter of said Section 36 as shown on Record of Survey Map No. 9080, filed in the Office of the County Recorder of said County and State; thence North $00^{\circ}51'49''$ East, along the West line of said Section 36, a distance of 164.83 feet; thence

00990

leaving said West line South 88°26'23" East a distance of 667.73 feet; thence North 0°46'11" East a distance of 145.07 feet to the TRUE POINT OF BEGINNING; thence retracing South 0°46'11" West a distance of 18.00 feet; thence South 56°29'11" West a distance of 105.04 feet to the beginning of a tangent 939.00 foot radius curve concave Northwesterly; thence Southwesterly along the arc of said curve through a central angle of 7°52'40" a distance of 129.11 feet; thence North 88°26'23" West a distance of 71.86 feet; thence North 72°16'13" East a distance of 105.95 feet; thence North 64°29'18" East a distance of 101.07 feet; thence North 52°09'52" East a distance of 100.93 feet to the TRUE POINT OF BEGINNING.


Section 8. That an offer to purchase said property interests pursuant to Section 7267.2 of the Government Code has been made after an appraisal of said properties by Gerald S. Kibbey and Associates, Inc., an independent fee appraiser firm, dated May 23, 1986, and that this offer was rejected by the owner or owners of record.

Section 9. That the City Attorney of The City of San Diego be, and he is authorized and directed to commence an action in the Superior Court of the State of California, in and for the County of San Diego, in the name and on behalf of The City of San Diego, against all owners and claimants to an interest in the

00991

above-described real property, for the purpose of condemning and acquiring the fee interests and easements as above-described and obtaining immediate possession of said parcels for the use of said City.

APPROVED: John W. Witt, City Attorney

By 

Alan L. Geraci
Deputy City Attorney

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Or.Dept:Property
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APR 28 1987

Passed and adopted by the Council of The City of San Diego on.....
by the following vote:

| Council Members | Yeas | Nays | Not Present | Ineligible |
|------------------------|-------------------------------------|--------------------------|-------------------------------------|--------------------------|
| Abbe Wolfsheimer | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Bill Cleator | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Gloria McColl | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| William Jones | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Ed Struiksma | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Mike Gotch | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Judy McCarty | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Celia Ballesteros | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mayor Maureen O'Connor | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

AUTHENTICATED BY:

MAUREEN O'CONNOR
Mayor of The City of San Diego, California.

(Seal)

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

By *Barbara Baxter* Deputy.

Office of the City Clerk, San Diego, California

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